Venable, Baetjer, Howard & Civiletti, LLP
Post Office Box 34385
Washington, D.C. 20043-9998

In re Application of POLYMEROPOULOUS et al	:
U.S. Application No.: 09/446,628	: DECISION ON
Int. Application No.: PCT/US98/13071	:
Int. Filing Date: 25 June 1998	: RENEWED PETITION
Priority Date: 25 June 1997	:
Attorney Docket No.: 31978-141234	: UNDER 37 CFR 1.137(b)
For: CLONING OF A GENE MUTATION	:
FOR PARKINSON'S DISEASE	:

This is in response to applicants' "Renewed Petition Under 37 C.F.R. § 1.137(b) and 37 C.F.R. § 1.137(e)(1)" filed 19 September 2001.

BACKGROUND

On 25 June 1998, applicants filed international application PCT/US98/13071, which claimed priority of an earlier United States application filed 25 June 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 December 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 January 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 December 1999.

On 23 December 1999, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371. The submission included the requisite basic national fee.

On 23 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 is due along with a surcharge for providing an oath or declaration later than thirty months from the priority date. The Notification of Missing Requirements set a one month response period, which applicants extended by five months by paying the appropriate fee.

International application PCT/US98/13071 became abandoned as to the United States of America on 23 August 2000 for failure to respond to the Notification of Missing Requirements.

On 28 August 2000, applicants filed a petition to revive the abandoned application under 37 CFR 1.137(b) along with a declaration.

On 26 September 2000, this Office mailed a decision dismissing the 28 August 2000 petition on grounds that the declaration filed 28 August 2000 was improper.

On 12 October 2000, applicants filed a renewed petition under 37 CFR 1.137(b) along with new declarations.

On 11 July 2001, this Office mailed a decision dismissing the 12 October 2000 renewed petition on grounds that the declaration signed by inventor Robert Nussbaum was improper.

On 19 September 2001, applicants filed the present renewed petition. The renewed petition states that it is accompanied by a new declaration signed by Robert Nussbaum.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

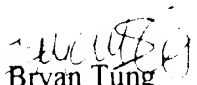Items (2), (3), and (4) have been previously satisfied.

With regard to item (1), the declaration filed 19 September 2001 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is <u>GRANTED</u>.

The application has an international filing date of <u>25 June 1998</u> and a date under 35 U.S.C. 371 of <u>19 September 2001</u>.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459